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BOOK REVIEWS.

THE PRINCIPLES OF JUDICIAL PROOF, AS GIVEN BY LOGIC, PSYCHOLOGY AND GENERAL EXPERIENCE, AND ILLUSTRATED IN JUDICIAL TRIALS. By John Henry Wigmore, Professor of the Law of Evidence in Northwestern University, and Author of a System of Evidence in Trials at Common Law. Little, Brown & Company, Boston, 1913, pp. xvi, 1179.

This new work of Professor WIGMORE is, to use his expression, a "tentative attempt to call attention to the principles of judicial proof as a whole, and as a system." He insists that the influences and processes which lead us, as the result of the consideration of evidence presented, to the conclusion that a fact is, or that a fact claimed to exist is not, are scientific, and are therefore the proper subject of study. He seems as yet, doubtful as to whether this science of proof is capable of formulation, but contends that it is susceptible of being better understood by the members of the profession than is now common.

"The mind *is* moved" by evidence presented, and this work is an effort to "explain *why* it is moved." The question here discussed is not one of the admissibility of evidence, but conceding admissibility, does it satisfy us of the existence of the *factum probandum*?

The author has brought to this work the ripe scholarship of one recognized as a master in the general law of evidence, and that remarkable power of both analytic and synthetic reasoning so evident in his great work, the TREATISE ON THE LAW OF EVIDENCE.

It is fortunate that one so well qualified should have directed his efforts toward the solution of the problems presented in this field in which there has been comparatively little done. Mr. MOORE, in his "TREATISE ON FACTS," had earlier rendered a real service to the profession, and others had done some work along this general line, but no one had attempted to systematize the principles involved.

The book is intended, as the author states, mainly for use in law schools, but the general practitioner will find its study most interesting and profitable.

His discussions center about three conditions of the evidence: 1st, that where the evidence is circumstantial; 2nd, that where the evidence is testimonial, and 3rd, that condition involving the consideration of both circumstantial and testimonial evidence. The first and second parts are introductory, in the sense that an understanding of the principles to be applied in solving an evidentiary problem involving circumstantial evidence only, or one involving testimonial evidence alone, will enable one more easily to appreciate and comprehend the processes involved in solving the more complex and much commoner problem in which both circumstantial and testimonial evidence are the factors, correct values for which are to be found.

"Most topics are introduced or followed by a brief expository passage" suggesting the possibilities of the topic, "though the main part of the material may, and must be, used inductively."

While the author contemplates that the student will work out in his own way, very largely, the problems suggested by the materials furnished, yet he has suggested a method of working out the questions as presented by the evidence in two cases, those of *Commonwealth v. Umilan*, 177 Mass. 582, and *Hatchett v. Commonwealth*, 76 Va. 1026, which is well worth studying, and present well the author's ideas of how the evidence in complicated cases may be rationally analyzed and conclusions reached, not intuitively, nor by giving effect to general impressions, but as the result of the careful and methodical consideration of each factor in the problem presented by the evidence.

Aside from the expository passages referred to, the material presented is a collection of the reports of actual cases which give the testimony upon which they were determined, gathered from various sources, arranged in an orderly way to develop the various topics.

Whether or not Professor WIGMORE's prophecy that rules of admissibility are, in the future, to be regarded as of less and less importance, and the problem of how to deal with evidence produced, increasingly important, shall come true or not, this work is certain to claim the careful attention of the thoughtful lawyer and the serious student of the law. V. H. L.

HANDBOOK OF THE LAW OF MUNICIPAL CORPORATIONS. By Roger W. Cooley, LL.M., Professor of Law, University of North Dakota. (Hornbook Series) pp. xii, 711. St. Paul, Minn. West Publishing Company. 1914.

This book is "designed especially for the use of students," and the aim of the author, as stated in the preface, is "to give a clear and concise statement of those fundamental principles which must be and are applied in any attempt to formulate or construe the law of Municipal Corporations as found in the various statutes." This task, which the author has thus outlined for himself, is gigantic, because first, the classifications in this subject are still very much unsettled, there is much dispute about some of the basic principles of the law, and the exact limits to many of the fundamental principles are still undefined; second, the field covered is so broad as to make it difficult, if not impossible, to condense even the general principles of the subject into the small compass of this book without leading the reader into misconceptions of the law.

Considering the nature of the task it is not surprising that even a writer of some experience, as is the author of this book, in condensing the material of the subject should have made some general statements that are inaccurate and misleading, if not actually untrue. A good example of such a statement is furnished by certain portions of Chapter III, in which the difficult subject of "Legislative Control" is discussed. In Section 24 of that chapter the black letter text reads as follows: